

NOTICE OF HEARING REGARDING PROPOSED SETTLEMENT OF CLASS
ACTION IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

Civil Action No. 94-1204C

Maria Walters, et al.

vs.

Janet Reno, et al.

TO: ALL NON-CITIZENS WHO WAIVED OR FAILED TO REQUEST A HEARING UNDER THE DOCUMENT FRAUD PROVISIONS OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1324C, AFTER BEING SERVED WITH THE CHARGING AND NOTICE FORMS CURRENTLY USED BY THE IMMIGRATION AND NATURALIZATION SERVICE.

You are hereby notified that a hearing has been scheduled for February 22, 2001 at 8:30 a.m. before the Honorable John C. Coughenour, District Court Judge, at the United States Courthouse, 1010 Fifth Avenue, Seattle, Washington 98104, for consideration of a proposed settlement of the claims which have been brought on your behalf in this action.

Purpose of This Notice: This notice is to inform you of the settlement, tell you how to get more information, and explain how you may object to the settlement if you disagree with it.

Background: This lawsuit was filed on August 17, 1994 in federal court in Seattle, Washington. Plaintiffs are non-citizens who waived or failed to request hearings to contest charges that they committed document fraud in violation of § 274C of the Immigration and Nationality Act ("INA"). Plaintiffs alleged that INS procedures and forms were inadequate to inform them of their rights to dispute the charges against them. The Court granted a permanent injunction, which was upheld on appeal. A Settlement Agreement has been reached and has been provisionally approved by the Honorable John C. Coughenour of the United States District Court for the District of Washington. Under the Settlement, the plaintiff class is defined as all non-citizens who waived or failed to request a hearing under section 274C of the INA, and all such individuals are covered by the Settlement Agreement.

The Settlement Agreement: The agreement provides, in summary, as follows:

- A. Defendants do not admit to any violations of, or failure to comply with, the Constitution, laws or regulations.
- B. Defendants will discontinue the use of the versions of forms challenged in this action to give notice of proceedings under section 274C of the INA or to obtain waivers of the right to a section 274C hearing.
- C. Plaintiffs and Defendants agree that a revised section 274C form fully communicates the nature and consequences of the charges, the procedures for contesting them, and the importance and separate nature of section 274C proceedings from removal proceedings.
- D. Defendants will not at this time accept waivers of the right to a section 274C hearing from individuals served with the revised form.
- E. Defendants will vacate all section 274C final orders issued against class members who received the forms challenged in this action and who waived or failed to request a hearing within sixty days. Defendants will not recharge such class members with the revised form referenced above for the same conduct charged in the original forms. Defendants will not charge such class members as being deportable under INA § 237(a)(3)(C) or inadmissible under INA § 212(a)(6)(F) based on the same conduct charged in the original forms.

F. Defendants will agree to join a class member in a joint motion to re-calendar deportation proceedings that were administratively closed by either the Immigration Judge or the Board of Immigration Appeals pending final resolution of the issues involved in this action.

G. Defendants will join a class member in a joint motion to reopen or remand deportation proceedings only if: (1) The class member's prior deportation order was based, in whole or part, on a section 274C final order vacated pursuant to the terms of this Agreement; (2) The class member submits a written request to the INS Office of the District Counsel for the district in which the deportation case was completed before an Immigration Judge, asking the INS to join in a jointly filed motion to reopen deportation proceedings; (3) The class member: (a) is seeking to apply for relief from deportation for which he or she is prima facie eligible as a result of the vacatur of the section 274C final order, under the law in effect at the time the written request is received by the INS; or (b) is no longer deportable as a result of the vacatur of the section 274C final order; and (4) The class member's written request is received by the INS within two (2) years after the INS notifies class members' counsel that it has vacated all 274C final orders issued against class members, as agreed. In the event, and at the time, the INS seeks to take enforcement action on a class member's deportation order that is based in part on a section 274C final order vacated pursuant to the terms of the Agreement, the INS will provide written notice to the class member of his or her rights and responsibilities.

H. After providing such written notice, the INS will refrain from taking enforcement action on a class member's deportation order for thirty (30) days from the date on the written notice. This will provide the class member time to submit a written request to the INS, asking the INS to join in a jointly filed motion to reopen deportation proceedings. If the INS does not receive a class member's written request by the end of the thirty-day period, the INS may proceed to take enforcement action on the deportation order, but only if the deportation order contains at least one ground of deportability that is unrelated to the class member's vacated section 274C final order.

I. If the INS agrees to join in a joint motion to reopen or remand deportation proceedings, the INS will continue to refrain from taking enforcement action on the class member's deportation order while the jointly filed motion to reopen is pending before the Immigration Judge or the Board of Immigration Appeals.

J. The INS may decline to join in a joint motion to reopen or remand deportation proceedings if the INS determines that the class member's written request fails to comply with the requirements set forth above. If the INS declines to join in a joint motion to reopen or remand deportation proceedings, the INS will provide the plaintiff with written notification of its decision. Such written notification will state that the class member will have sixty (60) days from the date on the INS written notification to file a motion with the Court seeking review of the INS determination that the written request does not comply with the requirements set forth above. The parties will jointly move the Court to enter an order by which the Court shall retain jurisdiction, for a two-year period only, to entertain motions brought by class members.

K. Defendants will mount a public information campaign to afford notice to class members with prior deportation orders based, in whole or part, on section 274C final orders that are vacated pursuant to this Agreement, of their rights and obligations under this Agreement.

L. The parties will jointly move the Court to enter an order dismissing with prejudice all issues, claims, and causes of action arising from plaintiffs' Complaint. The parties will jointly move the Court to enter an order vacating its Order and Permanent Injunction filed on October 2, 1996.

M. The parties will jointly move the Court to enter an order by which the Court shall retain jurisdiction through the Agreement, for a two-year period only, over a claim that any party has expressly repudiated or committed a substantial breach of any terms of the Agreement. In exercising such retained jurisdiction, the Court shall not act on any matter until the complaining party has initiated a dispute resolution mechanism, the time for response has expired, and the negotiations have proved fruitless; nor shall the Court modify or expand in any way the undertakings of the parties hereunder without the consent of all parties.

N. This Notice will be translated into the Spanish language and published in *Interpreter Releases*, provided to the American Immigration Lawyers' Association, the NLG Immigration Project, and the National Immigration Forum for distribution to member attorneys and/or organizations, provided to Benders Immigration Briefings, mailed to the INS's list of voluntary agencies, and distributed to the Immigration Professors' e-mail listserv, the CLINIC listserv, the ACLU detention listserv, and the listservs operated by the Immigrant Legal Resource Center.

Attorney's Fees: Defendants have agreed to reimburse plaintiffs' counsel in the amount of \$622,340.00 for attorneys' fees, plus \$44,082.00 in costs.

For Further Information: This is a summary of the settlement. To understand it fully, you should read the entire settlement and revised form. Copies of the settlement may be obtained from: LINTON JOAQUIN, National Immigration Law Center, 3545 Wilshire Blvd., Suite 2850, Los Angeles, CA 90010. Copies of the settlement will also be available at www.nilc.org, the National Immigration Law Center's website.

Procedures for Agreement or Objection: IF YOU AGREE with the proposed settlement, you do not need to do anything at this time. You may be present at the public hearing on the proposed settlement as stated above. IF YOU DISAGREE with the proposed settlement, you have a right to object to it and to the dismissal with prejudice of the claims asserted. Your objections will be considered by the Court as it reviews the settlement. Objections to the proposed settlement will be considered only if the following procedures are followed.

1. Objections must be filed in writing by mail with Clerk of the United States District Court for the Western District of Washington, Room 215, U.S. Courthouse, 1010 Fifth Avenue, Seattle, WA 98104.

2. ALL OBJECTIONS MUST HAVE THE FOLLOWING INFORMATION:

- * The approximate date and place that you were served with a document fraud Notice of Intent to Fine, and whether you waived or failed to request a section 274C hearing.
- * Name, address and telephone number of the person filing the objection.
- * A statement of the reasons for the objection.
- * A statement that you have sent copies of your objection to the lawyers listed at the end of the notice.

3. The DEADLINE for filing your objections and mailing them to the lawyers listed below is January 22, 2001. If objections are filed by mail, they must be postmarked on or before January 22, 2001 to be considered timely. Objections filed or mailed after that date will not be considered. Plaintiffs who fail to file objections on or before January 22, 2001 will not be permitted to testify at the Settlement hearing.

4. A public hearing on the proposed Settlement and any objections which have been filed will be held as stated above.

5. YOU MUST SEND COPIES OF YOUR OBJECTIONS TO EACH OF THE LAWYERS LISTED BELOW:

LINTON JOAQUIN
NATIONAL IMMIGRATION LAW CENTER
3435 Wilshire Blvd., Suite 2850
Los Angeles, CA 90010
(213) 639-3900

SHELLEY R. GOAD
OFFICE OF IMMIGRATION
LITIGATION- CIVIL DIVISION
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PO Box 878
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